

Securities and Exchange Commission

§ 201.601

interest or penalties. An order modifying temporary sanctions shall be effective 14 days after service. Within one week of service of the order modifying temporary sanctions any party may seek a stay or modification of the order from the Commission pursuant to § 201.401.

§ 201.540 Appeal and Commission review of initial decision making a temporary order permanent.

(a) *Petition for review.* Any person who seeks Commission review of an initial decision as to whether a temporary sanction shall be made permanent shall file a petition for review pursuant to § 201.410, provided, however, that the petition must be filed within 10 days after service of the initial decision.

(b) *Review procedure.* If the Commission determines to grant or order review, it shall issue a briefing schedule order pursuant to § 201.450. Unless otherwise ordered by the Commission, opening briefs shall be filed within 21 days of the order granting or ordering review, and opposition briefs shall be filed within 14 days after opening briefs are filed. Reply briefs shall be filed within seven days after opposition briefs are filed. Oral argument, if granted by the Commission, shall be held within 90 days of the issuance of the briefing schedule order.

§ 201.550 Summary suspensions pursuant to Exchange Act Section 12(k)(1)(A).

(a) *Petition for termination of suspension.* Any person adversely affected by a suspension pursuant to Section 12(k)(1)(A) of the Exchange Act, 15 U.S.C. 78l(k)(1)(A), who desires to show that such suspension is not necessary in the public interest or for the protection of investors may file a sworn petition with the Secretary, requesting that the suspension be terminated. The petition shall set forth the reasons why the petitioner believes that the suspension of trading should not continue and state with particularity the facts upon which the petitioner relies.

(b) *Commission consideration of a petition.* The Commission, in its discretion, may schedule a hearing on the matter, request additional written submissions, or decide the matter on the facts pre-

sented in the petition and any other relevant facts known to the Commission. If the petitioner fails to cooperate with, obstructs, or refuses to permit the making of an examination by the Commission, such conduct shall be grounds to deny the petition.

RULES REGARDING DISGORGEMENT AND PENALTY PAYMENTS

§ 201.600 Interest on sums disgorged.

(a) *Interest required.* Prejudgment interest shall be due on any sum required to be paid pursuant to an order of disgorgement. The disgorgement order shall specify each violation that forms the basis for the disgorgement ordered; the date which, for purposes of calculating disgorgement, each such violation was deemed to have occurred; the amount to be disgorged for each such violation; and the total sum to be disgorged. Prejudgment interest shall be due from the first day of the month following each such violation through the last day of the month preceding the month in which payment of disgorgement is made. The order shall state the amount of prejudgment interest owed as of the date of the disgorgement order and that interest shall continue to accrue on all funds owed until they are paid.

(b) *Rate of interest.* Interest on the sum to be disgorged shall be computed at the underpayment rate of interest established under Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), and shall be compounded quarterly. The Commission or the hearing officer may, by order, specify a lower rate of prejudgment interest as to any funds which the respondent has placed in an escrow or otherwise guaranteed for payment of disgorgement upon a final determination of the respondent's liability. Escrow and other guarantee arrangements must be approved by the Commission or the hearing officer prior to entry of the disgorgement order.

§ 201.601 Prompt payment of disgorgement, interest and penalties.

(a) *Timing of payments.* Unless otherwise provided, funds due pursuant to an order by the Commission requiring the payment of disgorgement, interest, or